

**Harpswell Planning Board Meeting  
Minutes of March 17, 2004**

**Approved 4-21-04  
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**Attendance:** *Present:* Sam Alexander - Chairman, Howard Nannen, Dee Carrier, and Joanne Rogers. James Carignan – Associate arrived after the meeting commenced. Noel Musson – Town Planner and Amy E. Ferrell – Planning Assistant. *Absent:* John Papacosma – Vice Chairman, Henry Korsiak - Associate.

**Introductions and Pledge of Allegiance** - the meeting had been advertised in the Times Record, and recorded. Chairman Alexander called the meeting to order at 6:30 pm, introduced above Board members and staff and led the pledge of allegiance.

**Review of Agenda and Procedure** - Chairman Alexander reviewed general Board procedures and the agenda for the evening.

**Approval of Minutes** - The Board reviewed the minutes of 2/25/04. **Motion – To approve the minutes of February 25, 2004, as submitted.**

**Site Visit Review** - Chairman Alexander reported that he, Joanne Rogers, and James Carignan visited the property of James & Arleen Murnane and Marolyn Bibber on Monday, March 15<sup>th</sup>.

**04-03-01 James Hoare (James & Arleen Murnane - Owners), Reconstruction of Non-Conforming Structure; Raise Existing House and place on New Foundation, Commercial Fisheries 1, Tax Map 19-5, Harpswell Neck Road, Harpswell.**

Applicant Presentation – James Hoare, Architect and Designer, stated the proposal is to place a foundation under the existing cottage. The proposed alteration would require removing the existing deck, lifting and holding the cottage in place, excavating underneath and around the existing footprint as necessary, constructing a concrete foundation stepped to the grade, building insulated wood frame walls under the floor system, and settling the existing structure on the new foundation/frame system, and reattaching the deck. The foundation follows the existing grade; a few windows will be added, along with a pair of doors to access this new space. Height of the basement area will be approximately 6' – 7' with no habitable space intended, space will be used for mechanical systems and winter storage. Currently there is a negative elevation of 1" – 8" that the applicant would like to correct. The structure would be lifted up no higher than three feet.

Board Review and Discussion – Chairman Alexander expressed concern over the septic system and northeast corner of the existing cottage which is very close and would like to know how the excavation being proposed will keep the septic from running into the foundation/perimeter drains. Mr. Hoare stated that until excavating begins, he is unsure of the extent of any restrictions they might run into. He also stated that they could omit some of the footing drains at that end of the house to help prevent the affluent from the septic system from entering the foundation/drains. Ms. Carrier asked if the proposed stairs would further encroach on the setbacks. Mr. Hoare stated the proposal would have one new stair tread where there was none before. After discussion with the Board, Mr. Hoare agreed to change the stairs to keep the same footprint. Mr. Nannen stated the Board needs to consider under section 10.3.1.2 of the Shoreland Zoning Ordinance whether the location of the structure meets all the setback requirements to the greatest practical extent. Chairman Alexander stated based on the non-conforming property which currently meets none of the setbacks, it would be hard to find another location for the structure without further encroaching on one of the other setbacks.

**Motion – The Board finds the applicant meets the requirements of Section 10.3.1.2 of the Shoreland Zoning Ordinance. (Motion by Chairman Alexander and seconded by Nannen; carried 4-0)**

Chairman Alexander reviewed the criteria of section 13.4.7 of the Basic Land Use Ordinance.

**Motion – The Board finds the applicant meets section 13.4.7.1 and will maintain safe and healthful conditions. (Motion by Chairman Alexander and seconded by Carrier; carried 4-0)**

Chairman Alexander stated his concern over the septic system. Musson stated it was a Codes issue and they would make sure the system was operating properly.

**Motion – The Board finds the applicant meets section 13.4.7.2 and will not result in water pollution, erosions, or sedimentation to surface waters. (Motion by Chairman Alexander and seconded by Nannen; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.3 and will adequately provide for the disposal of all wastewater. (Motion by Chairman Alexander and seconded by Rogers; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.4 and will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. (Motion by Rogers and seconded by Carrier; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.5 and will conserve shore cover and points of access to inland and coastal waters. (Motion by Carrier and seconded by Rogers; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.6 and will protect archaeological and historic resources. Chairman Alexander noted this site was not listed in the Comprehensive Plan. (Motion by Alexander and seconded by Nannen; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.7 and will not adversely affect existing commercial fishing or maritime activities. Motion by Carrier and seconded by Rogers; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.8 and is not located in a floodplain zone the applicant has submitted a LOMA. (Motion by Alexander and seconded by Nannen; carried 4-0)**

**Motion – The Board finds the applicant meets section 13.4.7.9 and is in conformance with Section 15 of the Shoreland Zoning Ordinance. (Motion by Rogers and seconded by Carrier; carried 4-0)**

**Motion – The Board approves the application with the condition that the new stairs will not extend beyond the existing concrete step base. (Motion by Alexander and seconded by Rogers; carried 4-0)**

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**04-03-02 Diane Bibber-Oden (Marolyn Bibber - Owner), Site Plan Review; Construction of a Wharf Ramp, Float, Fish House, and Boat Launch for the Operation of a Commercial Fishing Business, Commercial Fisheries 1, Tax Map 17-147, Ash Point Road, Harpswell.**

In the absence of Regular Member, John Papacosma, Chairman Alexander appointed Associate Member, James Carignan, as a voting member.

Applicant Presentation – Diane Bibber-Oden explained that the applicant has an existing business, “Bibber Lobster”. There is another business, “Interstate Lobster” located next door to them. Both businesses share a parking lot area. Existing space is very limited; the applicant would like sell the Bibber Lobster property to Interstate Lobster and re-locate the business to a new site. (Tax map 17-147) The applicant proposes to build a 26’ x 100’ foot fixed pier with a 20’ x 70’ wharf extension. At the intersection, there will be a 6’ x 40’ ramp descending to a 10’ x 30’ float. Said float will rest upon tidal flats at extreme low tide. Descending from the 20’ x 70’ wharf extension will be another 6’ x 40’ ramp connecting to another 10’ x 30’ float. In addition to the wharf, the applicant proposes a 24’ x 36’ bait house, asphalt paved boat ramp ,

parking lot, and driveway. The application before the Board is to address the wharf and bait house only; plans for a home on the same property location will be addressed at a later time.

Board Review and Discussion – Chairman Alexander stated the Board received an additional letter from William Wells, Codes Enforcement Officer and Baker Design Consultants.

Public Comment - Mr. Schuster asked the applicant how large of an operation is being proposed. Ms. Bibber-Oden stated that Mr. Bibber will be the main user with two or three other people interested in buying their bait there. Their boats are moored elsewhere

Board Review and Discussion - Chairman Alexander reviewed the standards of Section 15.3 of the Shoreland Zoning Ordinance.

**15.3.1** The applicant stated that silt fences, bales, and any other means of erosion control as required by DEP will be used. A concrete form will be used to secure the end of the wharf to the shore as an apron to the land side. The existing swale will not be used and it will be filled in. The parking lot and other areas will be sloped toward a natural existing ditch. **Motion – The Board finds the applicant will follow proper erosion control procedures and meets the requirements of this Section. (Motion by Alexander and seconded by Rogers; carried 5-0)**

**15.3.2** The applicant stated there are no beach areas but all ledge. **Motion – The Board finds there is no beach area in the proposed development site and that the application meets the standards of this Section. (Motion by Carrier and seconded by Nannen; carried 5-0)**

**15.3.3** **Motion – The Board finds this section is met because the applicant is in support of fisheries and would not have an adverse affect on any sort of fisheries. (Motion by Alexander and seconded by Carignan; carried 5-0)**

**15.3.4** The Board asked the applicant to justify the need for the size of the wharf. Ms. Bibber-Oden stated the proposed wharf is 26' in width to help stabilize the wharf which will be on a pier foundation and not on cribwork. Also, to allow the applicant to have bait trucks unload bait on the wharf. **Motion – The Board finds the applicant meets the requirements of this section. (Motion by Rogers and seconded by Nannen; carried 5-0)**

**15.3.5** The Board discussed the height of the bait house with the applicant. The bait house height is 22 ½ feet. **Motion – The Board finds the applicant meets the requirements of this section because it is a commercial fishing business. (Motion by Alexander and seconded by Nannen; carried 5-0)**

**15.3.6** **Motion – The Board finds the application is for commercial use and there will be no structure extending beyond the maximum high water line and finds the applicant meets the requirements of this section. (Motion by Alexander and seconded by Carrier; carried 5-0)**

**15.3.7** **Motion – The Board finds the proposed structure is under the 30' height requirement and meets the standards of this section. (Motion by Nannen and seconded by Alexander; carried 5-0)**

Chairman Alexander reviewed section 15 of the Site Plan Review Ordinance.

## **15.1. Dimensional Requirements**

*Motion – The Board finds the applicant meets the Dimensional Requirements because the fish house is an operational necessity, not required to meet the 75' setback, lot coverage is less than the 70% limit, and the height of the fish house is less than 30'. (Motion by Nannen and seconded by Alexander; carried 5-0)*

## **15.2. Utilization of the Site**

*Motion – The Board finds the applicant meets the standards of this section because the structures are clustered and the wetland area is not considered high value. (Motion by Alexander and seconded by Carignan; carried 5-0)*

### **15.3. Adequacy of Road System**

*Motion – The Board finds that the access road already services two commercial fishing businesses and would handle the use and finds the road system is adequate. (Motion by Carrier and seconded by Alexander; carried 5-0)*

### **15.4. Access into the Site**

The applicant stated the road will be graded and paved. Ms. Bibber-Oden also stated it would not be widened or built-up and feels it is adequate for the proposed use. *Motion – The Board finds that access to the site is sufficient for the proposed use and meets the standards of this section. (Motion by Rogers and seconded by Carignan; carried 5-0)*

### **15.5. Access/Egress Way Location and Spacing**

*Motion – The Board finds the applicant meets the standards of this section because the existing access and egress to the site is sufficient. (Motion by Alexander and seconded by Carignan; carried 5-0)*

### **15.6. Internal Vehicular Circulation**

The applicant stated at the end of the existing road they intend to put in a parking area which would be approximately 30' from the abutting property on the north end. The parking area will be for no more than four vehicles to service customers. There will be a space between the parking area and the building to allow for the bait trucks to turn around. The entire area will be paved.

### **15.7. Parking**

*Motion – The Board finds the applicant will have adequate internal vehicular circulation and parking with the proposed plan and meets the standards of Section 15.6 and 15.7. (Motion by Nannen and seconded by Carignan; carried 5-0)*

### **15.8. Pedestrian Circulation**

*Motion - The Board finds the applicant meets the standards of this section. (Motion by Carignan and seconded by Rogers; carried 5-0)*

### **15.9. Stormwater Management**

The applicant stated the existing swale will be filled in and that all drainage will be diverted by sloping the driveway to an existing natural ditch running the entire length of the road. No culverts are planned for the wharf proposal and bait house. *Motion – The Board finds the applicant meets the standards of this section since stormwater will be directed to the ditch and the ditch is kept in its natural state to retain stormwater and minimize flow. (Motion by Nannen and seconded by Carrier; carried 5-0)*

### **15.10. Erosion Control**

The applicant stated they would have to adhere to DEP requirements. *Motion – The applicant meets the standards of this section. (Motion by Alexander and seconded by Rogers; carried 5-0)*

### **15.11. Water Supply and Groundwater Protection**

The applicant stated it would not be necessary to have fresh water supplied to the bait house. Salt water will be used for washing down the wharf. A portable toilet will be placed and available for public use. *Motion – The Board finds the applicant meets the standards of this section since no requirement for groundwater. (Motion by Nannen and seconded by Alexander; carried 5-0)*

### **15.12. Subsurface Waste Disposal**

*Motion – The Board finds the applicant meets the standards of this section since there is no subsurface waste disposal system proposed. (Motion by Alexander and seconded by Carignan; carried 5-0)*

### **15.13. Utilities and Essential Services**

The applicant stated that there is an existing utility pole, from this pole electrical and phone wires would run to a proposed residential use, to be built later, and from there the utilities would run underground to the bait

house. Once attached to the bait house the utilities would need to be run up 9' to meet flood hazard regulations. *Motion – The Board finds that based on the applicants testimony that the wiring would be brought in underground, with a pole to bring the power up the side of the building the proposal meets the requirements of this section. (Motion by Nannen and seconded by Carrier; carried 5-0)*

#### **15.14. Natural Features and Buffering**

The applicant stated that mature trees the property line on both sides. *Motion – The Board finds the applicant meets the requirements of this section and that no additional buffering is required. (Motion by Carrier and seconded by Nannen; carried 5-0)*

#### **15.15. Lighting**

The applicant stated there will be eight lights; one placed at the end of the wharf, two spaced evenly on the wharf, and the others in the parking area. Mr. Bibber stated he will be using lights that will have minimal impact on abutting properties. *Motion – The Board finds the applicant meets the requirements of this section. (Motion by Carignan and seconded by Alexander; carried 5-0)*

#### **15.16. Water Quality Protection**

The applicant stated there would be no fuel stored on site. The applicant may wish to add a diesel fuel pump in a couple years. Musson recommended to the applicant that when, and if, they decide to move forward with a fuel pump, they would need to return to the Planning Board for approval. *Motion – The applicant meets the requirements of this section since no fuel will be stored at this site. (Motion by Carrier and seconded by Carignan; carried 5-0)*

#### **15.17. Hazardous, Special, and Radioactive Materials**

The applicant stated no such materials will be stored on site. *Motion – The Board finds the applicant meets the standards of this section in that there will be no Hazardous, Special and or Radioactive Materials stored on site. (Motion by Carignan and seconded by Nannen; carried 5-0)*

#### **15.18. Solid, Special, and Hazardous Waste Disposal**

The applicant stated there would be a covered dumpster on site and hauled off at least once a month. *Motion – The applicant meets the standards of this section with having a covered dumpster on site. (Motion by Alexander and seconded by Carignan; carried 5-0)*

#### **15.19. Historic and Archaeological Resources**

The applicant stated the nearest shell heap was approximately half a mile away from the proposed site; and all historic agencies have been notified. *Motion – The Board finds the applicant meets the requirements of this section by virtue of the applicant contacting the Historical Society. (Motion by Alexander and seconded by Carrier; carried 5-0)*

#### **15.20. Floodplain Management**

The applicant stated the Floodplain Ordinance requires them to have hydraulic openings in the bait house, the electricity has to be above the flood level and the wharf where attached needs to meet all requirements. *Motion – The Board finds the applicant meets the requirements of this section with the condition that the Codes Enforcement Office reviews the application and it meets the standards of the Floodplain Management. (Motion by Nannen and seconded by Carignan; carried 5-0)*

#### **15.21. Technical and Financial Capacity**

The applicant stated the current business will be sold to fund the new business; if it is not sold, the applicant has the financial capacity to fund the project. The applicant has hired an engineer to help with any flood hazard issues, and Redfish & Associates as its builder. *Motion – The Board finds the applicant meets the requirements of this section. (Motion by Carignan and seconded by Carrier; carried 5-0)*

Chairman Alexander reviewed section 13.4.7 of the Basic Land Use Ordinance and after reviewing the Site Plan Review Ordinance the Board moved on section 13.4.7 of the Basic Land Use Ordinance.

**Motion – The Board finds the proposal meets all requirements of Section 13.4.7 of the Basic Land Use Ordinance. (Motion by Rogers and seconded by Carrier; carried 5-0)**

**Motion – The Board approves the proposed application after careful review of Section 15.3 of the Shoreland Zoning Ordinance, Section 15 of the Site Plan Review Ordinance, and Section 13.4.7 of the Basic Land Use Ordinance. (Motion by Nannen and seconded by Alexander; carried 5-0)**

**Planners Updates-** Mr. Musson informed the Board of an upcoming Sustainable Development Conference at University of Southern Maine, Portland Campus and asked the Board members if they were interested in attending. Chairman Alexander stated he was interested in attending. In response to questions on what the Town would pay for in regards to conferences and memberships for Board members, Musson discussed with the Board their involvement in the budget process and getting their input when drafting the Planning Board budget next year.

Musson re-emphasized the importance of each motion and that the State Supreme Court had recently had a ruling which sent a case back to the Planning Board because the Notice of Decision didn't explain well enough why the Board ruled the way they did. Each motion needs to be supported with why the Board decides the way it does.

Musson informed the Board of a meeting he has with the Selectmen the following day to discuss a potential April Town meeting. There will be a need for Public Hearings prior to any meeting. Musson will email the Board with a tentative schedule after his meeting with the Selectmen. The Board discussed the proposed ordinance changes for the upcoming Town meeting and proposed areas of Planning for next year.

**Adjournment - Motion to adjourn at 8:25 pm. (Motion by Chairman Alexander and seconded by Nannen; carried 5-0)**

Respectfully submitted,

Amy E. Ferrell  
Planning Assistant